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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198102
Party	Defendant MOBILIZATION LABS, LLC
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Date	02/11/2011
Attachments	Applicants Answer.pdf (4 pages)(46491 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 77/921,906

Published in the *Official Gazette* April 13, 2010

WILDFIRE INTERACTIVE, INC.,		
Opposer,		Mark: WILDFIRE
v.		Opposition No. 91198102
MOBILIZATION LABS, LLC,		
Applicant.		

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant, Mobilization Labs, LLC (“Mobilization Labs”), for its answer to the Notice of Opposition filed by Wildfire Interactive, Inc. (“Wildfire Interactive”) against application for registration of Mobilization Labs’ trademark WILDFIRE, Serial No. 77/921,906 filed January 27, 2010, and published in the Official Gazette of July 13, 2010 (the “Application”), pleads and avers as follows:

1. Applicant denies knowledge and information sufficient to admit or deny the allegations of paragraph 1.
2. Admitted.
3. Admitted.
4. Admitted
5. Admitted
6. Admitted
7. Admitted

8. Denied.
9. Paragraph nine of contains a legal conclusion, for which no response is required.
10. Paragraph 10 contains no allegations, and therefore no response is required.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Opposer fails to state a claim upon which relief can be granted.

Second Affirmative Defense

As a result of Applicant's continuous use of the Mark since the time of Applicant's adoption thereof, the Mark has developed significant goodwill among the consuming public. Such goodwill and widespread usage has caused the Mark to acquire distinctiveness with respect to Applicant, and caused the Mark to become a valuable asset of Applicant.

Third Affirmative Defense

Applicant has been using the Mark and developing consumer recognition and goodwill therein since at least January 5, 2005. Applicant used the mark for more than three and a half years prior to Opposer's incorporation on July 17, 2008.

Fourth Affirmative Defense

Opposer's claims are barred by the doctrine of unclean hands or other applicable equitable principles.

Sixth Affirmative Defense

The pending civil litigation between Mobilization Labs and Wildfire Interactive over the mark WILDFIRE has no bearing on the Wildfire Interactive's unsupported grounds that "Mobilization Labs WILDFIRE mark was not in use in commerce in connection with all of the services listed in Mobilization Labs' Application as of the filing date of the Application."

Fifth Affirmative Defense

Wildfire Interactive's based its filing of this Opposition on the following grounds "On information and belief, and in violation of 15 U.S.C. § 1051(a), Mobilization Labs' WILDFIRE mark was not in use in commerce in connection with all of the services listed in Mobilization Labs' Application as of the filing date of the Application." Mobilization Labs asserts that Wildfire Interactive's Opposition is unsupported by any genuine belief or fact that Mobilizations Labs WILDFIRE mark was not in use in commerce in connection with all of the services listed as of the filing date of its Application. Rather, Mobilization Labs believes that this allegation was a pretense used to undermine Mobilization Labs' registration of the WILDFIRE mark in order to prevent it from acquiring *prima facie* evidence of the validity, ownership of, and the exclusive right to use said mark in commerce.

WHEREFORE, Applicant requests that this Opposition be dismissed, and that its Application be allowed to proceed to registration.

Respectfully submitted:

/C. Travis Tunnell/
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CERTIFICATE OF SERVICE

I hereby certify that true copies of the Answer to Notice of Opposition were deposited as First Class mail with the United States Postal Service on February 11, 2011, to Counsel for Opposer at the following addresss:

Alex S. Fonoroff; and
Sabina A. Vayner
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